



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 70**

**[EPA-R07-OAR-2012-0749; FRL-9795-2]**

**Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the State Implementation Plan (SIP) and Operating Permits Program to amend the definitions provisions of the rules. This SIP revision and revision to the Missouri operating permits program add the compounds propylene carbonate and dimethyl carbonate to the list of compounds which are excluded from the definition of Volatile Organic Compound (VOC) for consistency with the Federal definition of VOC. The SIP revision also corrects two asbestos method subpart references. This revision also approves Missouri's request to amend the SIP to meet the 2008 fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards implementation requirements of the May 16, 2008, New Source Review (NSR) PM<sub>2.5</sub> Rule. In this SIP revision, Missouri adopted rule revisions to establish the requirement for NSR permits to address directly emitted PM<sub>2.5</sub> and precursor

pollutants; and significant emission rates for direct PM<sub>2.5</sub> and precursor pollutants (sulfur dioxide (SO<sub>2</sub>) and nitrogen dioxide (NO<sub>x</sub>)).

**DATES:** This direct final rule will be effective [insert date 60 days from date of publication in the **Federal Register**], without further notice, unless EPA receives adverse comment by [insert date 30 days from date of publication in the **Federal Register**].

If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2012-0749, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
2. *Email:* [bernstein.craig@epa.gov](mailto:bernstein.craig@epa.gov).
3. *Mail or Hand Delivery:* Craig Bernstein, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

*Instructions:* Direct your comments to Docket ID No. EPA-R07-OAR-2012-0749. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes

information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or email information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain

other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Craig Bernstein at (913) 551-7688, or by email at [bernstein.craig@epa.gov](mailto:bernstein.craig@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following questions:

- I. Why is EPA Using a Direct Final Rule?
- II. What is Being Addressed in this Document?
- III. Have the Requirements for Approval of a SIP Revision and a Part 70 Revision Been Met?
- IV. What Action is EPA Taking?

**I. Why is EPA Using a Direct Final Rule?**

EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate

no adverse comment because the revisions are largely administrative and consistent with Federal regulations. The revisions will improve the clarity of the rule and do not have an adverse affect on air quality or the stringency of the SIP and operating permits program. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the SIP revision if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

## **II. What is Being Addressed in this Document?**

EPA is approving revisions to the Missouri SIP and operating permits program. The first revision adds the compounds propylene carbonate and dimethyl carbonate to the list of compounds which are excluded from the definition of Volatile Organic Compound (VOC) in 10 CSR 10-6.020(v). This action is

consistent with the EPA definition of VOC. These compounds can be found in the EPA definition of VOC at 40 CFR 52.100 (s)(1).

Revisions were made to the Table of compounds not considered VOCs because of their known lack of participation in the atmospheric reactions to produce ozone. Revisions include deletions, corrections and additions which are consistent with EPA regulations and do not adversely affect the stringency of the SIP or the operating permits program.

Next, definitions in 40 CSR 10-6.020(c) for Category I nonfriable asbestos containing material (ACM), and Category II nonfriable ACM are being updated to correct the method subpart reference. The correct method subpart references are consistent with the EPA rules found at 40 CFR part 763, subpart E, appendix E, section 1. The state has incorporated the EPA method subpart references in 10 CSR 10-6.020 Definitions and Common Reference Tables (2)(C)3 and (2)(C)4 dated November 30, 2010. Although asbestos is not regulated under the SIP, the EPA asbestos regulations (NESHAPS) are applicable requirements for purposes of Missouri's operating permit program and are approved for this purpose.

Finally, the de minimis emissions table is being updated for consistency with 40 CFR 52.21, specifically related to a portion of the NSR implementation rule for PM<sub>2.5</sub> (75 FR 28321,

May 16, 2008) which established the requirement for NSR permits to address directly emitted PM<sub>2.5</sub> and precursor pollutants and promulgated significant emissions rates for direct PM<sub>2.5</sub> and precursor pollutants (SO<sub>2</sub> and NO<sub>x</sub>). This revision can be found in Table 1, subsection (3)(A) of 10 CSR 10-6.020 Definitions and Common Reference Tables. The revised Missouri rule includes the following emission rates: PM<sub>2.5</sub> at an emission rate of 10.0 tons per year; SO<sub>2</sub> (PM<sub>2.5</sub> precursor) at an emission rate of 40.0 tons per year; and NO<sub>x</sub>(PM<sub>2.5</sub> precursor) at an emission rate of 40.0 tons per year.

### **III. Have the Requirements for Approval of a SIP Revision and a Part 70 Revision Been Met?**

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. The substantive requirements of Title V of the 1990 CAA Amendments and 40 CFR part 70 have been met as well.

### **IV. What Action is EPA Taking?**

We are taking direct final action to approve the amendments to the Missouri SIP and operating permits program. This revision will amend the definitions provisions of the rules as described above for VOCs and asbestos, as well as update the de minimis

emissions table found in Missouri's rule "Definitions and Common Reference Tables" to be consistent with 40 CFR part 52.21.

### **Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian



tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Thus Executive Order 13132 does not apply to this action. This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to

use VCS. It would thus be inconsistent with applicable law for EPA when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Burden is defined at 5 CFR 1320.3(b).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial

review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the **Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the final rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## **List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental

relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

*40 CFR Part 70*

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: March 20, 2013.

Karl Brooks,  
Regional Administrator,  
Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart AA - Missouri

2. In § 52.1320 the table in paragraph (c) is amended by revising the entry for 10-6.020 as follows:

§ 52.1320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

EPA-Approved Missouri Regulations

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10-6.020	Definitions and Common Reference Tables	12/30/10	[insert date of <b>Federal Register</b> publication] [insert <b>Federal Register</b> page number where the document begins]	

\* \* \* \* \*

PART 70 - [AMENDED]

3. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. Appendix A to Part 70 is amended by adding paragraph (aa) under Missouri to read as follows:

Appendix A to Part 70 - Approval Status of State and Local  
Operating Permits Programs

\* \* \* \* \*

Missouri

\* \* \* \* \*

(aa) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10-6.020, "Definitions and Common Reference Tables" on December 15, 2010. The state effective date is December 30, 2010. This revision is effective [insert date 60 days from date of publication in the **Federal Register**].

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[FR Doc. 2013-07405 Filed 04/01/2013 at 8:45 am; Publication  
Date: 04/02/2013]